

## § 10.80

her consent and such consent has been accepted by the Internal Revenue Service) and such decision is for disbarment, the respondent will not be permitted to practice before the Internal Revenue Service unless and until authorized to do so by the Internal Revenue Service pursuant to § 10.81.

(b) *Suspension*. When the final decision in a case is against the respondent (or the respondent has offered his or her consent and such consent has been accepted by the Internal Revenue Service) and such decision is for suspension, the respondent will not be permitted to practice before the Internal Revenue Service during the period of suspension. For periods after the suspension, the practitioner's future representations may be subject to conditions as authorized by paragraph (d) of this section.

(c) *Censure*. When the final decision in the case is against the respondent (or the Internal Revenue Service has accepted the respondent's offer to consent, if such offer was made) and such decision is for censure, the respondent will be permitted to practice before the Internal Revenue Service, but the respondent's future representations may be subject to conditions as authorized by paragraph (d) of this section.

(d) *Conditions*. After being subject to the sanction of either suspension or censure, the future representations of a practitioner so sanctioned shall be subject to specified conditions designed to promote high standards of conduct. These conditions can be imposed for a reasonable period in light of the gravity of the practitioner's violations. For example, where a practitioner is censured because the practitioner failed to advise the practitioner's clients about a potential conflict of interest or failed to obtain the clients' written consents, the practitioner may be required to provide the Internal Revenue Service with a copy of all consents obtained by the practitioner for an appropriate period following censure, whether or not such consents are specifically requested.

(e) *Effective/applicability date*. This section is applicable beginning August 2, 2011.

[T.D. 9527, 76 FR 32310, June 3, 2011]

## 31 CFR Subtitle A (7-1-13 Edition)

### § 10.80 Notice of disbarment, suspension, censure, or disqualification.

(a) *In general*. On the issuance of a final order censuring, suspending, or disbarring a practitioner or a final order disqualifying an appraiser, notification of the censure, suspension, disbarment or disqualification will be given to appropriate officers and employees of the Internal Revenue Service and interested departments and agencies of the Federal government. The Internal Revenue Service may determine the manner of giving notice to the proper authorities of the State by which the censured, suspended, or disbarred person was licensed to practice.

(b) *Effective/applicability date*. This section is applicable beginning August 2, 2011.

[T.D. 9527, 76 FR 32311, June 3, 2011]

### § 10.81 Petition for reinstatement.

(a) *In general*. A disbarred practitioner or a disqualified appraiser may petition for reinstatement before the Internal Revenue Service after the expiration of 5 years following such disbarment or disqualification. Reinstatement will not be granted unless the Internal Revenue Service is satisfied that the petitioner is not likely to conduct himself, thereafter, contrary to the regulations in this part, and that granting such reinstatement would not be contrary to the public interest.

(b) *Effective/applicability date*. This section is applicable beginning August 2, 2011.

[T.D. 9527, 76 FR 32311, June 3, 2011]

### § 10.82 Expedited suspension.

(a) *When applicable*. Whenever the Commissioner, or delegate, determines that a practitioner is described in paragraph (b) of this section, proceedings may be instituted under this section to suspend the practitioner from practice before the Internal Revenue Service.

(b) *To whom applicable*. This section applies to any practitioner who, within five years of the date a complaint instituting a proceeding under this section is served:

(1) Has had a license to practice as an attorney, certified public accountant, or actuary suspended or revoked for cause (not including failure to pay a

professional licensing fee) by any authority or court, agency, body, or board described in §10.51(a)(10).

(2) Has, irrespective of whether an appeal has been taken, been convicted of any crime under title 26 of the United States Code, any crime involving dishonesty or breach of trust, or any felony for which the conduct involved renders the practitioner unfit to practice before the Internal Revenue Service.

(3) Has violated conditions imposed on the practitioner pursuant to §10.79(d).

(4) Has been sanctioned by a court of competent jurisdiction, whether in a civil or criminal proceeding (including suits for injunctive relief), relating to any taxpayer's tax liability or relating to the practitioner's own tax liability, for—

- (i) Instituting or maintaining proceedings primarily for delay;
- (ii) Advancing frivolous or groundless arguments; or
- (iii) Failing to pursue available administrative remedies.

(c) *Instituting a proceeding.* A proceeding under this section will be instituted by a complaint that names the respondent, is signed by an authorized representative of the Internal Revenue Service under §10.69(a)(1), and is filed and served according to the rules set forth in paragraph (a) of §10.63. The complaint must give a plain and concise description of the allegations that constitute the basis for the proceeding. The complaint must notify the respondent—

- (1) Of the place and due date for filing an answer;
- (2) That a decision by default may be rendered if the respondent fails to file an answer as required;
- (3) That the respondent may request a conference to address the merits of the complaint and that any such request must be made in the answer; and
- (4) That the respondent may be suspended either immediately following the expiration of the period within which an answer must be filed or, if a conference is requested, immediately following the conference.

(d) *Answer.* The answer to a complaint described in this section must be filed no later than 30 calendar days fol-

lowing the date the complaint is served, unless the time for filing is extended. The answer must be filed in accordance with the rules set forth in §10.64, except as otherwise provided in this section. A respondent is entitled to a conference only if the conference is requested in a timely filed answer. If a request for a conference is not made in the answer or the answer is not timely filed, the respondent will be deemed to have waived the right to a conference and may be suspended at any time following the date on which the answer was due.

(e) *Conference.* An authorized representative of the Internal Revenue Service will preside at a conference described in this section. The conference will be held at a place and time selected by the Internal Revenue Service, but no sooner than 14 calendar days after the date by which the answer must be filed with the Internal Revenue Service, unless the respondent agrees to an earlier date. An authorized representative may represent the respondent at the conference. Following the conference, upon a finding that the respondent is described in paragraph (b) of this section, or upon the respondent's failure to appear at the conference either personally or through an authorized representative, the respondent may be immediately suspended from practice before the Internal Revenue Service.

(f) *Duration of suspension.* A suspension under this section will commence on the date that written notice of the suspension is issued. The suspension will remain effective until the earlier of the following:

- (1) The Internal Revenue Service lifts the suspension after determining that the practitioner is no longer described in paragraph (b) of this section or for any other reason; or
- (2) The suspension is lifted by an Administrative Law Judge or the Secretary of the Treasury in a proceeding referred to in paragraph (g) of this section and instituted under §10.60.

(g) *Proceeding instituted under §10.60.* If the Internal Revenue Service suspended a practitioner under this section, the practitioner may ask the Internal Revenue Service to issue a complaint under §10.60. The request must

## § 10.90

be made in writing within 2 years from the date on which the practitioner's suspension commences. The Internal Revenue Service must issue a complaint requested under this paragraph within 30 calendar days of receiving the request.

(h) *Effective/applicability date.* This section is applicable beginning August 2, 2011.

[T.D. 9011, 67 FR 48774, July 26, 2002, as amended by T.D. 9359, 72 FR 54555, Sept. 26, 2007; T.D. 9527, 76 FR 32311, June 3, 2011]

### Subpart E—General Provisions

SOURCE: T.D. 9011, 67 FR 48774, July 26, 2002, unless otherwise noted.

#### § 10.90 Records.

(a) *Roster.* The Internal Revenue Service will maintain and make available for public inspection in the time and manner prescribed by the Secretary, or delegate, the following rosters—

(1) Individuals (and employers, firms, or other entities, if applicable) censured, suspended, or disbarred from practice before the Internal Revenue Service or upon whom a monetary penalty was imposed.

(2) Enrolled agents, including individuals—

(i) Granted active enrollment to practice;

(ii) Whose enrollment has been placed in inactive status for failure to meet the requirements for renewal of enrollment;

(iii) Whose enrollment has been placed in inactive retirement status; and

(iv) Whose offer of consent to resign from enrollment has been accepted by the Internal Revenue Service under § 10.61.

(3) Enrolled retirement plan agents, including individuals—

(i) Granted active enrollment to practice;

(ii) Whose enrollment has been placed in inactive status for failure to meet the requirements for renewal of enrollment;

(iii) Whose enrollment has been placed in inactive retirement status; and

## 31 CFR Subtitle A (7–1–13 Edition)

(iv) Whose offer of consent to resign from enrollment has been accepted under § 10.61.

(4) Registered tax return preparers, including individuals—

(i) Authorized to prepare all or substantially all of a tax return or claim for refund;

(ii) Who have been placed in inactive status for failure to meet the requirements for renewal;

(iii) Who have been placed in inactive retirement status; and

(iv) Whose offer of consent to resign from their status as a registered tax return preparer has been accepted by the Internal Revenue Service under § 10.61.

(5) Disqualified appraisers.

(6) Qualified continuing education providers, including providers—

(i) Who have obtained a qualifying continuing education provider number; and

(ii) Whose qualifying continuing education number has been revoked for failure to comply with the requirements of this part.

(b) *Other records.* Other records of the Director of the Office of Professional Responsibility may be disclosed upon specific request, in accordance with the applicable law.

(c) *Effective/applicability date.* This section is applicable beginning August 2, 2011.

[T.D. 9359, 72 FR 54555, Sept. 26, 2007, as amended by T.D. 9527, 76 FR 32311, June 3, 2011; 76 FR 49650, Aug. 11, 2011]

#### § 10.91 Saving provision.

Any proceeding instituted under this part prior to July 26, 2002, for which a final decision has not been reached or for which judicial review is still available will not be affected by these revisions. Any proceeding under this part based on conduct engaged in prior to September 26, 2007, which is instituted after that date, will apply subpart D and E or this part as revised, but the conduct engaged in prior to the effective date of these revisions will be judged by the regulations in effect at the time the conduct occurred.

[T.D. 9359, 72 FR 54555, Sept. 26, 2007]